

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

FREDERICK HALL,	:	
	:	Case No. 1:02-cv-34
Petitioner,	:	
	:	Judge Spiegel
v.	:	
	:	Magistrate Judge Black
HARRY K. RUSSELL, Warden,¹	:	
	:	
Respondent.	:	

**RESPONDENT'S MOTION TO CONTINUE
THE AUGUST 15, 2006 EVIDENTIARY HEARING**

Respondent moves this Court for an Order continuing the August 15, 2006 evidentiary hearing in the above-captioned case. In so moving, Respondent submits that good cause exists to grant the relief requested, as set forth more particularly in the accompanying memorandum.

Respectfully submitted,

JIM PETRO (0022096)
Attorney General

s/Jerri L. Fosnaught
JERRI L. FOSNAUGHT (0077718)
Assistant Attorney General
Corrections Litigation Section
150 East Gay Street, 16th Floor
Columbus, Ohio 43215
(614) 644-7233
FAX: (614) 728-9327
jfosnaught@ag.state.oh.us

Counsel for Respondent

¹ Hall is currently incarcerated in the Lebanon Correctional Institution. Ernie Moore is the Warden of that institution and as such is the proper party Respondent.

MEMORANDUM

On July 28, 2006, this Court issued a Notice informing the parties that an evidentiary hearing has been scheduled for August 15, 2006 at 9:30 a.m. However, the undersigned counsel's co-counsel, Assistant Attorney General Steven Eckstein, is currently out of the office and will not return until August 14, 2006, the day before the scheduled evidentiary hearing. Additionally, undersigned counsel is attempting to, but has not yet been able to, contact a witness who may have relevant information to provide at the evidentiary hearing. Respondent, therefore, respectfully requests that the evidentiary hearing be continued for two weeks.

Respondent submits that this is the first continuance sought for this evidentiary hearing. Also, pursuant to Rule 7.3 of the Local Rules of the United States District Court for the Southern District of Ohio, the undersigned conferred with Petitioner's counsel, who does not oppose this motion to continue the evidentiary hearing.

Respondent respectfully requests that the August 15, 2006 evidentiary hearing be continued for two weeks.

Respectfully submitted,

JIM PETRO (0022096)
Attorney General

s/Jerri L. Fosnaught
JERRI L. FOSNAUGHT (0077718)
Assistant Attorney General
Corrections Litigation Section
150 East Gay Street, 16th Floor
Columbus, Ohio 43215
(614) 644-7233
FAX: (614) 728-9327
jfosnaught@ag.state.oh.us

Counsel for Respondent

CERTIFICATE OF SERVICE

I hereby certify that a copy of the forgoing *Respondent's Motion to Continue the August 15, 2006 Evidentiary Hearing* was electronically filed on July 31, 2006. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

s/Jerri L. Fosnaught
JERRI L. FOSNAUGHT
Assistant Attorney General